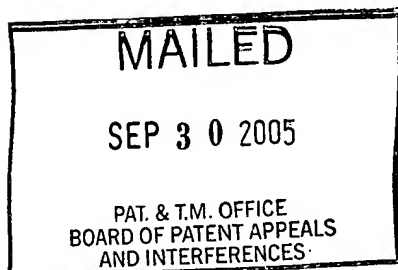




UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Fred E. McKelvey
Telephone: (571) 272-9797
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Applicants: Herrmann et al.
Application No.: 10/630,552
Filed: 07/29/03
For: Alkylidene complexes of ruthenium
containing N-heterocyclic carbene
ligands; use as highly active,
selective catalysts for olefin
metathesis

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,372.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

Fred E. McKelvey
Senior Administrative Patent Judge

INTERFERENCE DIGEST

Interference No. 105,372

Paper No.

Name: Wolfgang Anton Herrmann et al.

Serial No.: 10/630,552

Patent No.

Title: Alkylidene complexes of ruthenium containing N-heterocyclic carbene ligands; use as highly active, selective catalysts for olefin metathesis

Filed: 07/29/03

Interference with Nolan et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Paper 1

Filed 30 September 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Senior Administrative Patent Judge McKelvey)

STEVEN P. NOLAN and JINKUN HUANG,

Senior Party
(Application 09/392,869).

v.

WOLFGANG ANTON HERRMANN, WOLFGANG SCHATTENMANN
and THOMAS WESKAMP,

Senior Party
(Application 10/630,552).

Patent Interference No. 105,372
Technology Center 1600

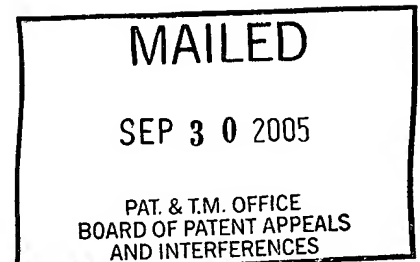
DECLARATION - Bd.R. 203(d)

Before McKelvey, Senior Administrative Patent Judge.

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the applications, count and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

¹ As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, in this case papers originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 C.F.R. § 10.18.



Part B. Judge managing the interference

Administrative Patent Judge McKelvey has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

Part C. Standing order

A Trial Section STANDING ORDER (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for 3:00 p.m. (1500 hours) on Wednesday, 30 November 2005 (the Board will initiate the call).

No later than **two business days** (i.e., Monday 28 November 2005) prior to the conference call, each party shall file and serve by facsimile (STANDING ORDER ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; STANDING ORDER ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named Inventors: Steven P. Nolan, New Orleans, LA
Jinkun Huang, New Orleans, LA

Application: 09/392,869
filed 09 September 1999

Title: Catalyst complex with carbene ligand

Assignee: University of New Orleans Foundation

Accorded Benefit: None²

² It is noted that Nolan claims priority of (1) provisional application 60/115,358, filed 08 January 1999 and (2) provisional application 60/099,722 filed 10 September 1998. To the extent Nolan believes it is entitled to benefit for the purpose of priority of the provisional applications, a motion for benefit may be listed in the motions list.

Senior Party

Named Inventors: Wolfgang Anton Herrmann, Germany
Wolfgang Schattenmann, Germany
Thomas Weskamp, Germany

Application: Application 10/630,552
filed 29 July 2003

Title: Alkylidene complexes of ruthenium
containing N-heterocyclic carbene
ligands; use as highly active, selective
catalysts for olefin metathesis

Assignee: Degussa AG

Accorded benefit: Application 09/647,742
filed 27 November 2000
now U.S. Patent 6,635,768 B1
issued 21 October 2003

PCT application PCT/EP99/01785,
filed 18 March 1999³

³ Herrmann also claim priority of German application 198 15 275, filed 06 April 1998. An English language translation of the application has not been found. Accordingly, benefit of the German application is not accorded at this time.

The senior party is assigned exhibit numbers 1001-1999.
Bd. R. 154(c)(1).

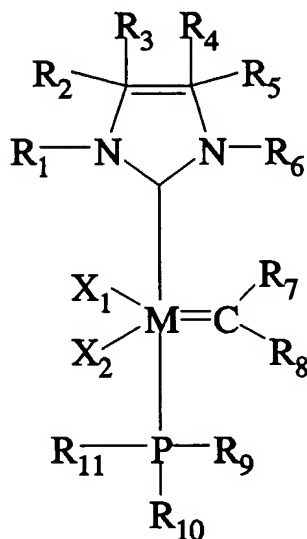
The junior party is assigned exhibit numbers 2001-2999.
Bd. R. 154(c)(1).

The senior party is responsible for initiating settlement
discussions. STANDING ORDER ¶ 18.

Part F. Count and claims of the parties

Count 1

A composition of matter having the fomula:



- M is ruthenium (Ru);
- P is phosphorous
- R₁ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl;
- R₂ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl;
- R₃ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl;
- R₄ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl;
- R₅ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl;
- R₆ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl;

- R₇ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl but cannot be -C=C-YZ, where Y and Z are any moiety;
- R₈ is hydrogen (-H), hydrocarbyl or substituted hydrocarbyl but cannot be -C=C-YZ, where Y and Z are any moiety;
- R₉ is alkyl having 1 to 10 carbon atoms or aryl having 5 to 20 carbon atoms;
- R₁₀ is alkyl having 1 to 10 carbon atoms or aryl having 5 to 20 carbon atoms;
- R₁₁ is alkyl having 1 to 10 carbon atoms or aryl having 5 to 20 carbon atoms;
- X₁ is an anionic ligand; and
- X₂ is an anionic ligand.

The claims of the parties are:

Nolan: 9, 11-14, 17-21, 23-40, 43-65, 71-73 and 77-111

Hermann: 1-21

The claims of the parties which correspond to Count 1 are:

Nolan: 9, 11-14, 17-21, 23-39, 45, 51-58, 63-64 and 77-88

Hermann: 1-21

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Nolan: 40, 43-44, 46-50, 59-62, 65, 71-73 and 89-111

Hermann: None

Part G. Heading to be used on papers

The heading in STANDING ORDER Form 1 must be used on all papers filed in this interference. See STANDING ORDER ¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Senior Administrative Patent Judge McKelvey)

STEVEN P. NOLAN and JINKUN HUANG,

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WOLFGANG ANTON HERRMANN, WOLFGANG SCHATTENMANN
and THOMAS WESKAMP,

Senior Party
(Application 10/630,552).

Patent Interference No. 105,372
Technology Center 1600

Part H. Order form for requesting file copies

When requesting copies of files, use of STANDING ORDER Form 4 will greatly expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Part I. Required paragraph for affidavits and declarations

The Board has recently experienced a rash of cases in which a witness has belatedly advanced reasons why he or she would be unable to appear for cross examination at a reasonable time and place in the United States. Consequently, the Board is requiring the following paragraph to be included on the signature page of all affidavits (including declarations) filed in this case to prevent surprise and hardship to the party relying on the testimony of the witness:

In signing this affidavit/declaration, I recognize that the affidavit/declaration will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also recognize that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted for cross examination.

Enc (@there is no Form PTO-850):

STANDING ORDER (Paper 2)
DVD program
e-filing program
Stevens, "Polymer Chemistry," pages 285-289 (1990)
Collman, "Principles and Applications of
 Organotransition Metal Chemistry," pages 591-592
Claims application 11/021,967
Specification application 11/021,967 (as filed)
Claims application 10/630,552
Specification and oath application 10/630,552
U.S. Patent 6,635,768 B1
Provisional application 60/115,358 (including bibliographic
 data sheet)
Provisional application 60/099,722 (including bibliographic
 data sheet)
Specification, drawings, abstract, original claims of
 application 09/392,869
Drawings application 09/392,869
Claims application 09/392,869
Power of Attorney application 09/392,869
Bibliographic data sheet application 09/392,869

Revised January 2005

cc (via overnight delivery):

Attorney for Nolan
(real party in interest
University of New Orleans Foundation):

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Email: None

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Degussa AG):

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Tel: 302-658-9141
Fax: 302-658-5614
Email: None